

ROBERT G. ATKINS
AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND
MEASURES



County of San Diego

DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES
5555 Overland Avenue, Suite 3101, San Diego, CA 92123-1256
<http://www.sdcawm.org>

AGRICULTURE
(858) 694-2739
FAX (858) 495-5012

WEIGHTS & MEASURES
(858) 694-2778
FAX (858) 505-6484

COUNTY VETERINARIAN
(858) 694-2838
FAX (858) 571-4268

SAN MARCOS OFFICE
(760) 752-4700
FAX (760) 752-4703

June 26, 2009

**TO: CERTIFIED FARMERS' MARKET MANAGERS
CERTIFIED PRODUCERS
SAN DIEGO COUNTY FARM BUREAU**

**RE: DIRECT MARKETING GUIDELINES FOR ADMINISTRATIVE CIVIL
PENALTIES**

Enclosed are the Direct Marketing Program guidelines for administrative civil penalties. The guidelines are intended to gain compliance while providing uniform enforcement. The direct marketing program promotes fair competition among participants and ensures consumer confidence in the quality and integrity of the markets.

These guidelines were recommended and accepted by the Certified Farmers' Market Advisory Committee and the County Agricultural Commissioners on May 13, 2002. They were distributed to all Certified Farmers' Markets, the Southland Farmers' Market Association and the California Federation of Certified Farmers' Markets on or about June 6, 2002. We are distributing the guidelines again to ensure that Certified Farmers' Market participants are aware of them.

Please be advised that violations of Chapter 10.5 of the California Food and Agricultural Code and/or Title 3, Article 6.5 of the California Code of Regulations may result in civil administrative penalties pursuant to section 47025 and the attached guidelines.

We appreciate your continued cooperation in maintaining compliance as a certified producer, or as a market manager at your certified farmers' market. Market managers are encouraged to post or distribute copies of the guidelines for your participants.

If you have any questions, please call (858) 694-2778.

ROBERT G. ATKINS
Agricultural Commissioner/
Sealer of Weights and Measures

Enclosure

ADMINISTRATIVE CIVIL PENALTIES FOR DIRECT MARKETING

Authority Cited Food and Agricultural Code Section 47025 (a)

Rev. 5/23/02

CODE SECTION	VIOLATIONS/PENALTY	MINOR \$50-\$150	MODERATE \$151-\$400	SERIOUS \$401-\$1,000
Section I.	Certified Producer Violations			
1. CCR 1392.4(a) FAC 47002	Certified producer selling Product(s) not of their own production.			1 st Violation.
2. CCR 1392.5(c) 1392.7(a)2 FAC 47020	Refusing to submit to inspection.			1 st Violation.
3. CCR 1392.4(d)	Producer not having a certified producer's certificate.			1 st Violation
4. CCR 1392.4(d)	Certified producer selling with an expired certificate and not in the renewal process with CAC.		2 nd NC in 12 months	Repeat NC within 12 months of Moderate penalty.
5. CCR 1392.4(d)	Valid certified producer's certificate not in possession, and/or not posted. (not embossed)	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
6. CCR 1392.4(a) 1392.5(b),(c) 1392.7(a)1	Certified producer selling product(s) which they produced but do not have listed on their certified producer's certificate.	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
7. CCR 1392.4(f)2	Certified producer selling at a certified farmer's market for other certified producer(s). i.e. "Second Cert." <ul style="list-style-type: none"> Authorized certified producer's certificate(s) not in possession and/or posted for other certified producer(s). 	2 nd NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
8. CCR 1392.4(f)2	"Second Cert." <ul style="list-style-type: none"> Product not separated and identified. 	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
9. CCR 1392.4(f)4 CCR 1392.4(f)3	"Second Cert." → Name of certified producer(s) not listed on certificate of other certified producer who is authorized to sell the certificate holder's products. (Agreement was made but paperwork not done <u>not</u> a resell situation). And/or "Second Cert." → Name of certified producer not listed on other producer's certificate that the certificate holder may sell for (Agreement was made but paperwork not done <u>not</u> a resell situation).		1 st Violation	Repeat NC within 12 months of Moderate penalty.
10. CCR 1392.4(f)1	A certified producer representing more than 2 other certified producer(s) in a 12-month period and/or a certified producer being represented by more than 2 certified producer(s) in a 12-month period.		1 st Violation	2 nd or more violations.

NC = Documented notice of noncompliance, or notice of violation.

* = Penalties will be assessed after two documented notices of noncompliance/violation are issued.

Decisions to suspend or revoke a certified producer's certificate, or privileges to participate in certified farmers' markets will be made at the discretion of the agricultural commissioner on a case by case basis.

CODE SECTION	VIOLATIONS/PENALTY	MINOR \$50-\$150	MODERATE \$151-\$400	SERIOUS \$401-\$1,000
Section I. Con't	Certified Producer Violations			
11. CCR 1392.4(f)5	Certified producer selling or offering for sale a greater amount of other certified producer's products than their own.	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
12. CCR 1392.4(f)9 1392.4(f)10	Certified producer not keeping records of products sold for or by other certified producer. Failure to supply records on demand.	1 st Violation	2 nd Violation	Repeat NC within 12 months of Moderate penalty.
13. FAC 47005	Refusing to allow inspection or entrance.			1 st Violation Plus Suspension and/or Revocation
14. FAC 47005.1	Refusing to allow inspection of products and/or subject products to inspection			1 st Violation Plus Suspension and/or Revocation
15. FAC 47005.2	Refusing to allow seizure of evidence.			1 st Violation Plus Suspension and/or Revocation
16. FAC 47022	Nonconforming products, i.e. <ul style="list-style-type: none"> • Minimum Grade Stds. • Minimum Maturity Stds. • Closed Consumer Cont.(IRQ) • Egg Labeling Requirements 	3 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
17. FAC 47022.1	Deceptive pack i.e. nice cherries on top of basket, tiny ones on the bottom.	1 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
18. FAC 47022.2	Mislabel/Misleading statement.	2 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
19. FAC 47022.3	Falsify documents or false statements to obtain certificate.			1 st Violation Plus Suspension and/or Revocation
20. FAC 47022.4	Unlawfully removing NC or product held under NC.			1 st Violation
21. FAC 47022.5	Refusing to submit for inspection or stop any vehicle for inspection.			1 st Violation Plus Suspension and/or Revocation
22. FAC 47022.6	Refusing to allow inspection of property, storage etc.			1 st Violation Plus Suspension and/or Revocation
23. FAC 47022.7	Altering any official document issued by an Enforcing Officer.			1 st Violation Plus Suspension and/or Revocation

Section II.	Certified Farmers' Market Violations	Minor \$50-\$150	Moderate \$151-\$400	Serious \$401-\$1000
1. CCR 1392.9(a) 1	Failure to ensure the sellers are represented by the proper person selling.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
2. CCR 1392.9(a)2	Failure to ensure the producers are selling only certified and non-certifiable products in the area designated as the CFM.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.

Section II.	Certified Farmers' Market Violations (Con't)	Minor \$50-\$150	Moderate \$151-\$400	Serious \$401-\$1000
3. CCR 1392.9(a)3	Failure to ensure the certified producers possess a valid certified producer's certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
4. CCR 1392.9(a)3	Failure to ensure the certified producers post a valid certified producer's certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
5. CCR 1392.9(a)4	Failure to ensure the certified producers lists their certified products on their certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
6. CCR 1392.9(a)5	Failure to ensure the producers are selling only approved non-certifiable ag. products.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
7. CCR 1392.9(a)6	Failure to ensure the producer's products being sold for other producer(s) are separated and identified and all certified producer's names are cross referenced.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
8. CCR 1392.9(b)	Failure to collect all of the load lists required on any single market day. Failure to keep load lists for 18 months. Did not collect at least 20% of the load lists on any single market day.	2 Market NC's in 12 months. →	Repeat NC within 12 months of Minor penalty. →	Repeat NC within 12 months of Moderate penalty. 1 st Violation
9. CCR 1392.6(g)	Failure to provide state and/or county with current market rules.	*2 NC's in 12 months.		3 or more NC's in 12 months.
10. CCR 1392.4(f)	Allowing one certified producer to sell for another certified producer without providing for it in the market rules.		*2 NC's in 12 months.	3 or more NC's in 12 months.
11. CCC 1392.6(d), (e), (f)	Market rules must be in compliance.		*2 NC's in 12 months.	Repeat NC within 12 months of Moderate penalty.
12. FAC 47005	Refusing to allow inspection or entrance			1 st Violation Plus Suspension of Participation Privileges and/or Revocation
13. FAC 47022.2	False, deceptive, misleading signs, statements, or documents	2 NC's in 12 months	Repeat NC within 12 months of minor penalty	Repeat NC within 12 months of moderate penalty
14. FAC 47022.3	Falsify documents or false statements to obtain market Certificate			1 st Violation Plus Suspension of Participation Privileges and /or Revocation
15. FAC 47022.4	Unlawfully removing NC or products held under NC			1 st Violation
16. FAC 47022.6	Refusing to allow inspection of property			1 st Violation Plus Suspension of Participation Privileges and/or Revocation
18. FAC 47022.7	Altering any official document issued by enforcing officer			1 st Violation Plus Suspension of Participation Privileges and/or Revocation